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EXAMINER

LAstra, DANIEL

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/965,152
Filing Date: September 27, 2001
Appellant(s): BANERJEE ET AL.

Gerald H. Glanzman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/26/2009 appealing from the Office action mailed 02/25/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

7,249,050	WALKER ET AL	07-2007
5,956,694	POWELL	09-1999

(9) Grounds of Rejection

Claims 1, 12, 23 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US 7,084,737) in view of Walker (7,249,050) and further in view of Powell (US 5,956,694).

As per claims 1, 12 and 23, Moore teaches:

A method for providing products, the method comprising:

receiving, at a first automatic product/service dispensing machine at a location in a micronetwork of proximally located diverse automatic product/service dispensing machines, a request for an item by a user (see col 5, lines 1-30)

receiving at the first automatic product/service dispensing machine, a payment device of the user wherein the payment device includes identity information (see col 5, lines 1-5);

responsive to a determination that the item is unavailable at the first automatic product/service dispensing machine, providing the user with redirection information regarding a location of at least one alternative automatic product/service dispensing machine in the micronetwork at which the item may be obtained (see col 5, lines 1-30; col 7, lines 20-40).

Moore fails to teach:

requesting the user to select a second automatic product/service dispensing machine among the at least one alternative automatic product/service dispensing

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machine; responsive to the user selecting the second automatic product/service dispensing machine, providing the identity information and notice of discount value to be given to the user for the item to the second automatic product/service dispensing machine; and responsive to receiving the payment device of the user at the second automatic product/service dispensing machine, the second automatic product/service dispensing machine dispensing the item and deducting the discount value from a price of the item, wherein the user is charged a reduced price for the item at the second automatic product/service dispensing machine. However, Walker teaches a vending machine that offers products to undecided customers and suggests substitute products when the originally selected item is unavailable (see Walker col 2, line 63 – col 3, line 6) and where the substitute product may further be offered to the customer at a discounted price as an inducement to a buyer to accept the alternative (see Walker col 4, lines 40-45). Also, Walker teaches a system that when a product qualifies for multiple alternate offers all products that so qualify might be presented to a consumer in a single offer (e.g., “how about A or B or C instead?”) so said consumer is able to select one of said plurality of alternate offers (see Walker col 18, lines 45-50). Furthermore, Walker teaches a vending machine that provides a customer with an alphanumeric magnetic-strip discount coupon that would be enter into a vending machine at a later date in order to redeem the discount coupon (see Walker col 15, lines 55-67). Powell teaches a system that stores discount coupons in magnetic-strip cards, where said cards include customers' identification data (see Powell abstract; col 6, lines 1-50). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was

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made, to know that when a consumer selects to purchase with a payment card a desired product in a first vending machine if said desired product is unavailable in said first vending machine, Moore would present to said consumer an option to select an alternative product located in a second vending machine where said option would include an incentive discount coupon as an inducement to said consumer to accept the alternative, as Walker teaches that it is old and well known in the promotion art to allow consumers to select one alternative product from a list of alternative products in a vending machine and to receive an inducement coupon for said selection when said consumers has previously selected in said vending machine an unavailable product. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that when a consumer selects in said first vending machine an alternative product located in said second vending machine that Moore would use said consumer's magnetic strip payment device to identify said consumer and the discount coupon won by said consumer for selecting said alternative, as Walker teaches that it is old and well known in the promotion art that vending machines may be programmed to offer discounts coupons on alternative products when buyers selects unavailable products and to download said coupons to magnetic-strip cards and Powell teaches that it is old and well known in the promotion art to use said magnetic-strip cards to uniquely identify consumers when said consumers redeem discounts coupons stored in said magnetic-strip cards.

As per claims 34-36, Moore teaches:

wherein the payment device comprises one of a smart card, credit card, charge card and debit card (see col 5, lines 1-5).

(10) Response to Argument

The Appellant argues in page 13 of the Brief that the prior arts do not teach “requesting the user to select a second automatic product/service dispensing machine among the at least one alternative automatic product/service dispensing machine”, “responsive to the user selecting the second automatic product/service dispensing machine, providing the identity information and notice of a discount value to be given to the user for the item to the second automatic product/service dispensing machine” or “responsive to receiving the payment device of the user at the second automatic product/service dispensing machine, the second automatic product/service dispensing machine dispensing the item and deducting the discount value from a price of the item, wherein the user is charged a reduced price for the item at the second automatic product/service dispensing machine”. The Examiner answers that said limitation is interpreted according to Appellant’s specification page 8, line 25 – page 9, line 2 as simply allowing a user to select a coupon at a first automatic dispensing machine for an item that is unavailable at said first automatic dispensing machine and providing the user with redirection information regarding a location of at least one alternative automatic dispensing machine at which the item may be obtained and the coupon can be redeemed. Moore teaches a system that display to a user the location of a second automatic machine when an item selected by a user in a first automatic dispensing machine is unavailable (see Moore col 2, lines 1-50). Walker teaches that it is old and

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well known in the promotion art to allow a user of an automatic dispensing machine to select an offer of an alternate product and a future discount to be redeemed at a future date at a automatic dispensing machine using a magnetic strip card (see Walker col 15, lines 40-67) and Powell teaches that it is old and well known in the promotion to art to store discount coupons in magnetic-strip cards, where said cards include customers' identification data (see Powell abstract; col 6, lines 1-50). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that when a consumer selects to purchase with a payment card a desired product in a first vending machine if said desired product is unavailable in said first vending machine, Moore would present to said consumer an option to select an alternative product located in a second vending machine where said option would include an incentive discount coupon as an inducement to said consumer to accept the alternative, as Walker teaches that it is old and well known in the promotion art to allow consumers to select one alternative product from a list of alternative products in a vending machine and to receive an inducement coupon for said selection when said consumers has previously selected in said vending machine an unavailable product. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that when a consumer selects in said first vending machine an alternative product located in said second vending machine that Moore would use said consumer's magnetic-strip payment device to identify said consumer and the discount coupon won by said consumer for selecting said alternative, as Walker teaches that it is old and well known in the promotion art that vending machines may be programmed to offer

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discounts coupons on alternative products when buyers selects unavailable products and to download said coupons to magnetic-strip cards and Powell teaches that it is old and well known in the promotion art to use said magnetic-strip cards to uniquely identify consumers when said consumers redeem discount coupons stored in said magnetic-strip cards. Therefore, contrary to Appellant's argument, the prior arts teach Appellant's claimed invention.

The Appellant argues in pages 14-15 that the references do not teach "responsive to the user selecting the second automatic product/service dispensing machine, providing the identity information and notice of a discount value to be given to the user for the item to the second automatic product/service dispensing machine". The Examiner answers that Powell teaches that it is old and well known in the promotion art to store discount coupons in magnetic-strip cards, where said cards include customers' identification data (see Powell abstract; col 6, lines 1-50) and where the information in said card is uploaded to point of sale terminals at a checkout station in order to determine whether products scanned at said checkout station has corresponding coupons obtained from said card (see col 10, lines 1-10). Therefore, contrary to Appellant's argument, the moment that a user of a customer card storing discount coupons presents said card and payment identification information to a point of sale terminal (i.e. second automatic dispensing machine) in order to redeem said coupons at said point of sale terminal, said user is providing the identity information and notice of a discount value to be given to the user for the item to the point of sale terminal (i.e.

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second automatic dispensing machine). Therefore, contrary to Appellant's argument, the prior arts teach Appellant's claimed invention.

The Appellant argues in pages 15-16 that the prior arts do not teach "responsive to receiving the payment device of the user at the second automatic dispensing machine, the second automatic dispensing machine dispensing the item and deducting the discount value from a price of the item, wherein the user is charged a reduced price for the item at the second automatic dispensing machine" because although Powell discloses deducting a value of an electronic coupon stored in a customer card when a product is purchased, the customer card, according to the Appellant, is not a payment device. The Examiner answers that Powell customer card is a payment device as the coupon stored in said customer card are used for payment for products in a POS terminal (see col 10, lines 1-15). Therefore, contrary to Appellant's argument, the prior arts teach Appellant's claimed invention.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/DANIEL LASTRA/
Examiner, Art Unit 3688
April 14, 2009

Conferees:

/James W Myhre/
Supervisory Patent Examiner, Art Unit 3688

Vincent Millin /vm/

Appeals Conference Specialist